

CLOVERDALE APARTMENTS, INC.

P. O. BOX 5235 PHONE 723-3231
WINSTON-SALEM, N. C. 27103

EX PARTE OR LATE FILED

DOCKET FILE COPY ORIGINAL

July 8, 1996

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

Re: Restrictions on Over-The Air Reception Devices, (CS Docket No. 96-83;)
and Preemption of Local Zoning Regulation of Satellite Earth Stations,
IB Docket No. 95-59

Dear Mr. Caton:

We write to request clarification regarding the possible effect on our business of the rules proposed in the above dockets. An original and 13 copies of this letter are enclosed for filing in the record. We understand that the proposed rules would invalidate "nongovernmental restrictions" that "impair" a viewer's ability to receive video programming over the air, through a wireless cable or similar system, or by direct broadcast satellite.

Cloverdale Apartments, Inc. owns multi-unit, residential apartment buildings. Consequently, we have entered into hundreds of leases with our residents. We are concerned that our leases might contain terms that are "nongovernmental restrictions" that "impair" viewing, but we do not know how the proposed rules would be applied. This uncertainty could very well create unnecessary disputes with our residents.

We would appreciate your guidance in determining which provisions of our lease contain terms that might be considered "nongovernmental restrictions" or "impairments" under the rules you propose in our circumstances.

Accordingly, we enclose a copy of one of our representative lease forms. Please read it and let us know which terms of the enclosed form would violate either of the proposed rules.

Thank you for your assistance.

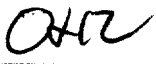
Sincerely,

CLOVERDALE APARTMENTS, INC.


Clay V. Ring, Jr., President

Enclosures

File of Copies rec'd
LIT ABODE



Rev. 10-4-94

YOUR SECURITY DEPOSIT IS PLACED IN AN INTEREST BEARING ACCOUNT WITH THE INTEREST OWNED BY AND DISBURSED TO LESSOR. SECURITY DEPOSITS ARE DEPOSITED IN A TRUST ACCOUNT WITH THE SALEM TRUST BANK, WINSTON-SALEM, NC OR OTHER FEDERALLY INSURED INSTITUTIONS.

APARTMENT LEASE

NORTH CAROLINA)
_____) COUNTY)

This Lease Agreement made this _____ day of _____, 19____, by and between _____ hereinafter referred to as Lessor and _____ and spouse _____ hereinafter referred to as Tenant.

WITNESSETH:

That Lessor hereby leases to Tenant an apartment in _____

known as Apartment No. _____ at _____ North Carolina, hereinafter referred to as the premises for the term of one year. The rent shall be paid at the office of the Lessor/Agent or Resident Manager and shall be at the Rate of \$ _____ per month, and shall be due and payable in advance without demand therefor on the 1st day of each month during the term of this lease. TIME IS OF THE ESSENCE IN THE PROMPT PAYMENT OF RENT. This lease shall commence on the _____ day of _____, 19____ and expire on the _____ day of _____, 19____, with payment of rent this date in the amount of \$ _____. **paying rent to _____, 19____. If the premises are to be vacated on the expiration date of this lease or holdover tenancy, Tenant is required to give Lessor/Agent 30 days paid and advance written notice. All notices required are to be given by Tenant to Lessor and must be delivered in writing to Lessor/Agents office or Lessor's Resident Manager. Monthly payments received shall first be applied to the settlement of any charges or fees and the balance of the payment shall be applied to the rent balance. The parties hereto, for themselves, their heirs, executors, administrators, successors and assigns, hereby covenant and agree as follows:

- (1) HOLDING OVER: If Tenant holds possession hereunder after the expiration of the term of this lease and is not in breach of any of the terms or conditions of this lease, with consent of Lessor, this lease shall renew itself from month-to-month until terminated by either party giving the other a thirty (30) day advance written notice and rent shall be paid in advance for said notice period.
- (2) DEPOSIT: Tenant hereby deposits _____ (\$ _____) to be held by Lessor with no interest accruing to Tenant. This deposit is made as a guaranty for the performance of all the terms and conditions of this lease. The deposit shall be refunded to Tenant provided Tenant has complied with all of the terms of this lease. It is agreed that the parties consider the amount of this deposit to be a good faith estimate of the rent which would accrue while the premises remained vacant as a result of: (1) Tenant's vacating the premises without providing Lessor with a thirty (30) day prior paid and written notice of Tenant's intent to vacate; (2) Lessor/Agent terminating this lease because of Tenant's breaching any term or condition of this lease. In addition to the deposit, which Tenant agrees to apply to rent accruing after Tenant vacates the premises without giving required notice or the lease term has not been fulfilled or after the Lessor has terminated the lease, Tenant promises to pay to Lessor; (A) all costs, if any, incurred by the Lessor in the cleaning and painting of the premises and/or restoring the premises to the condition the premises were in when the Tenant took possession; (B) all rent due Lessor from Tenant and unpaid; (C) for any other damage sustained by Lessor as the result of Tenant's breach of any term or condition of this lease; (D) cost of re-renting the premises. These provisions shall in no way bar the right of Lessor/Agent to collect from the Tenant any claim against the Tenant in excess of said deposit. The deposit may not, under any circumstances, be used by Tenant as the final month's rent, nor shall be transferable between tenants. Vacating tenant shall not have any claim for deposit refund after 6 months from date of final rental statement.
- (3) If the term of this lease is terminated prior to the expiration date or any renewal period (non-fulfillment of rental period) or for the breach of any other condition of this lease agreement, the Tenant agrees that a charge of \$20.00 will be deducted from the security deposit for the overhead cost of re-renting the apartment. This charge will be in addition to other charges for damages or replacements that are necessary to make the apartment suitable for renting.

OVER.....

(4) NOTICE & PAYMENT OF RENT: Rent is due on the 1st day of each month. Notices concerning unpaid rent will be hand delivered or posted or mailed on the 6th day and late payment charges will apply on the 6th day of each month and thereafter. After date of notice to tenants that rent has not been paid, they will be given three (3) days to pay the rent, the late fee and notice charge, if any, or vacate the premises. If the account is not settled within the three (3) day period, action may be taken in court for eviction on the 4th day after the date of notice. Lessor/Agent or Resident manager will not accept cash for the payment of rent. In all cases, checks must be properly identified with Tenants name and address. This also applies to your bank and savings and loan who pay rent out of accounts for tenants. Checks not properly identified with tenants name and address will be returned. If further settlement of the rental account results in a late charge, it will be applied to that monthly rental payment.

(5) LATE PAYMENT FEE: Should the Tenant become negligent in making prompt payment of rent as herein provided, or tenant's check is returned, the Lessor will impose a \$15.00 late charge on all rents paid after the date of notice that rent is past due or after the rent is due by prior agreement. There will also be a \$20.00 charge for handling returned checks for any reason. WHEN CHECKS ARE RETURNED TO US, THE LESSOR WILL ACCEPT ONLY CASHIERS CHECKS OR MONEY ORDERS IN PAYMENT OF THE CHECK. The Lessor/Agent reserves the right to refuse payment of rent for any default in the terms of this lease and require the premises to be vacated. If rents become delinquent and it is necessary to prepare and serve notices, a charge in the amount of \$1.00 per notice will be made. TIME IS OF THE ESSENCE IN THE PROMPT PAYMENT OF RENT.

(6) KEYS: Tenant agrees to purchase _____ keys at \$2.00 per key. The Tenant shall be given credit at the same rate by the Lessor/Agent when the keys are returned and they must be returned. No additional locks (other than chain door fasteners) are permitted.

(7) TERMINATION OF OCCUPANCY PRIOR TO ORIGINAL TERM:

(A) TERMINATION BY TENANT: If Tenant desires to vacate the premises before termination of the original term, the following shall be required in addition to Lessor/Agent's consent:

1. Tenant shall give the Lessor/Agent thirty (30) days advance written notice of intent to vacate.
2. To pay the rent in advance through the notice period.
3. To apply all or a portion of the security deposit as partial payment to Lessor for loss of rent and/or the expense of re-renting the premises (see paragraph (2) "DEPOSIT").
4. To pay for cleaning, damages and painting (see paragraph (2) "DEPOSIT").
5. To be liable for rent after the date of thirty (30) day notice and/or until apartment is re-rented or until the original lease term has expired.

(B) RELEASE: The lease requires that all persons executing the lease are jointly and severally liable for all of the terms and conditions of the lease agreement. After the original lease term has expired and any one of the tenants requests that they be removed from the lease they will be released provided: (1) they shall request that they be released from the lease agreement; (2) they have given 30 day paid and written notice and past due rent balances, if any, are brought to a current status; (3) they execute Part 1 of the LEASE AMENDMENT AND RELEASE dated April 1, 1991; (4) AFTER INSPECTION they and the remaining tenant(s) shall pay for any unusual damages, if any, other than normal wear and tear; (5) the remaining tenant(s) and any new tenant(s), if any, shall file NEW and SEPARATE APPLICATIONS and, if they are qualified, execute a NEW LEASE AGREEMENT. The minimum term for the new lease agreement shall be for 6 months at the current rental rate not including the surcharge for 6 month lease term. If the remaining tenant(s) have been previously qualified and together with the new tenant qualifies it will not be necessary to re-qualify the remaining tenant(s).

(C) TERMINATION BY LESSOR/AGENT: In the event this lease is terminated by the Lessor/Agent, as a result of the breach of the terms of the lease by the Tenant, the Tenant agrees to the following terms:

1. Lessor/Agent shall give the Tenant thirty (30) days written notice to vacate the premises except as stated herein.
2. To pay the rent in advance through the notice period.
3. To apply all or a portion of the security deposit as partial payment to Lessor for lost rent and/or the expense of re-renting these premises (see paragraph (2) "DEPOSIT").
4. To pay for cleaning, damages and painting (see paragraph (2) "DEPOSIT").
5. To be liable for rent after the date of notice and/or until apartment is re-rented or until the original lease term has expired.

(D) ABANDONMENT: If the premises are abandoned or become vacant or unoccupied during the term of the lease, the Lessor/Agent shall have the right, without notice or demand, to re-enter and take possession of the premises. Any property ABANDONED may be disposed of and Tenant does hereby waive any right, or claims to such property. See paragraph (15).

(E) IF THE TENANT SHALL FAIL TO PAY RENT WHEN DUE, OR LEASE IS TERMINATED FOR CAUSE BY Lessor/Agent, the Lessor/Agent, in addition to all other rights and remedies provided by law, may at its option (i) terminate this lease or (ii) terminate the Tenant's right to possession of the premises without terminating the lease.

(F) IF IT BECOMES NECESSARY for the Lessor/Agent through court actions to padlock any apartment unit for more than two consecutive months this lease shall immediately terminate.

(8) SECURITY: TENANT HEREBY AGREES AND ACKNOWLEDGES THAT MANAGEMENT AND OWNER SHALL NOT PROVIDE AND SHALL HAVE NO DUTY TO PROVIDE ANY SECURITY SERVICES TO TENANT OR THE COMMUNITY. TENANT SHALL LOOK SOLELY TO THE PUBLIC POLICE FORCE FOR SECURITY PROTECTION. Tenant agrees and acknowledges that protection against criminal action is not within the power of Lessor/Agent and Owner and even if from time to time Management provides temporary security services, those services cannot be relied upon by Tenant and shall not constitute a waiver of, or in any manner modify, the above agreement. Lessor/Agent and Owner shall not be liable for failure to provide adequate security services or for criminal or wrongful actions by others against Tenant, Tenant's relatives or Tenant's guests, their heirs, executors, administrators, successors and assigns.

(9) UTILITIES & SERVICES: Tenant shall pay for all utilities and services used that are not furnished by the Lessor. Tenant agrees upon vacating the premises to pay for utility charges to date of vacating; that all trash or other refuse is removed from the premises; that the doors and windows are properly locked or fastened; and that keys are returned to the Lessor/Agent. The Tenant further agrees that all rent will be paid in full; that all personal property left in or about the premises shall be regarded as abandoned and disposed of by the Lessor/Agent; to allow the apartment to be promptly inspected by the Lessor/Agent and agrees to be responsible for all personal property belonging to the Lessor such as, but not limited to, ranges, refrigerators, water heaters, light fixtures, window and door screens, until such time as the keys are returned to the Lessor/Agent. The Lessor/Agent shall not be held liable for failure to provide utilities or services or for damages to personal property resulting from Acts of God or circumstances beyond its control.

(10) PET CLAUSE: NO PETS ARE ALLOWED UNDER ANY CIRCUMSTANCES, EXCEPT BY SPECIAL Pet Endorsement and the payment of a non-refundable pet charge. Pets must be walked in rear yards only and as far away from the buildings as possible. When pets are outside, they must be attended by you and not allowed to "run loose". We reserve the right to demand the removal of any objectionable pet, in our judgment, from the apartment and premises. No pet shall be left unattended in any apartment unit for more than 24 hours. Failure to observe this rule will result in notice to vacate the premises. Dogs and cats only are allowed.

(11) OCCUPANCY & ENTRY: Tenant shall use the premises solely as a residence for himself, family or approved occupants as specified in the Rental Application and no occupancy of the premises will be allowed in excess of the people for which originally rented. The premises shall not be sublet, transferred, or assigned. In special cases relating to single people living together in an apartment, including students, all occupants must sign a separate application and lease agreement. TRANSFERS of occupancy to a single tenant or student will be allowed only when the incoming and outgoing parties execute the "LEASE AMENDMENT AND RELEASE" (form published April 1, 1991) relating to the transfer. All persons executing this lease agreement shall be jointly and severally responsible for the payment of rent and compliance with the terms of the application, lease agreement, month-to-month extensions and rules and regulations. If this procedure is not properly handled with the Lessor/Agent, all tenants occupying the apartment will be subject to eviction.

The Lessor/Agent shall have the right of entry, at all times, to the premises for the performance of repairs, maintenance, inspection and for the showing of apartment to prospective tenants.

(12) CONDITIONS, DAMAGES & REPAIRS: The premises have been inspected and found to be in good order and repair and no representation as to condition of repair has been made and no promise to decorate, alter, repair or improve the same has been made unless otherwise specified in writing. The Tenant shall maintain the property in as good condition as he finds it and shall pay for the cost of repairing any damages or cleaning or painting caused by abuse, negligence or misuse of the property. The Tenant shall keep drains from sinks, lavatories, commodes, tubs and sewer lines open at all times. All glass, locks, screens and hardware in and upon the doors and windows shall be kept whole; and whenever any part thereof shall be broken or damaged by the Tenant's abuse or negligence, the Tenant shall pay for the cost of repairing or replacing the same to the satisfaction of the Lessor.

(13) WALKWAYS, DRIVEWAYS, etc: SEE RULES & REGULATIONS

(14) USE OF GROUNDS AND COMMON AREAS: SEE RULES & REGULATIONS

(15) PERSONAL PROPERTY ON PREMISES: All personal property placed in the premises shall be at the sole risk of the tenant and Lessor shall not be liable for loss, destruction, theft or damage of said property. It is recommended that Tenant obtain insurance on its personal property for its own protection. The Tenant agrees herewith that any personal property left in the premises formerly occupied by the Tenant shall be considered as ABANDONED after apartment keys are returned to the Lessor/Agent or the premises have been vacated

or possession of the premises has been awarded to the Lessor/Agent by judicial proceedings. The Tenant agrees that it shall not have or exercise any further claim, right or title to the ABANDONED personal property and the property may be disposed of.

(16) USE OF PREMISES & QUIET POSSESSION: Tenant shall not use or permit to be used the premises for any unlawful purpose and shall not make or permit to be made any disturbing noises, or do or permit any act which will interfere with the rights, comforts or conveniences of other tenants. All radios and television sets must be kept at a reasonable volume, sufficiently low to prevent other tenants from being disturbed. No band instruments shall be practiced at any time, nor will the giving of music lessons, vocal or instrumental, be permitted in the premises. If it is determined, in the sole discretion of the Lessor/Agent, that any tenant, others in their household, people under their control or guests, take part in the dealing of drugs or any other illegal activity, the Tenant(s) shall be subject to eviction. See DRUGS - Rules & Regulations 50-R.

(17) RENT ADJUSTMENT: The monthly rent as stated herein, for month-to-month tenants and at the option of the Lessor/Agent can be adjusted at any time to the rent being paid by new incoming tenants in this complex after giving the Tenant at least thirty (30) days prior written notice.

(18) COURT COSTS, EVICTION PROCEEDINGS, ETC: In the event Lessor/Agent employs an attorney due to Tenant's breach of any term, provision, covenant or condition of this lease, Tenant shall be liable for any reasonable attorney's fees incurred by Lessor. Tenant shall be liable for payment of court and administrative costs involved in any action taken by Lessor.

(19) EMERGENCY MAINTENANCE. SEE RULES & REGULATIONS 33-R.

(20) THE LESSOR/AGENT RESERVES THE RIGHT TO ISSUE, AT ANY TIME, ADDITIONAL REGULATIONS THAT WILL BE BINDING AS TO THE OCCUPANCY OF THIS APARTMENT AS IF SET FORTH IN THIS LEASE.

(21) NO WAIVER of any term, obligation, covenant or condition of the breach or of the breach of any term, obligation, covenant or condition of this lease shall constitute a waiver of any subsequent breach of such term, obligation, covenant or condition or shall justify or authorize the non-observance on any other occasion of the same or any other term, obligation, covenant or condition hereof, nor shall the acceptance by Lessor of rent or other payment from Tenant when Tenant is in default under any term, obligation, covenant or condition hereof constitute a waiver of such default or of Lessor's right to terminate this lease or of any of the Lessor's other rights on account of such default, nor shall any waiver or indulgence granted by Lessor to Tenant be taken as an estoppel against Lessor.

(22) SPECIFIC NOTICES: If it is found that the tenant has breached Article 10 "PET CLAUSE", Article 11 "OCCUPANCY", Article 16 "USE OF PREMISES & QUIET POSSESSION" as to excessive noise or other disturbance, Rule "PORTABLE HEATERS", Rule "SMOKE ALARMS", Rule "WASHING MACHINES & CLOTHES DRYERS", the Tenant agrees that a five (5) day notice to correct the default or be evicted shall be sufficient notice. See DRUGS - Rules & Regulations 50-R.

(23) Disclaimer: The Tenant acknowledges herewith that it has examined the premises and accepts the physical condition of the dwelling, common facilities and common areas at the time the lease is signed and will not hold the Lessor responsible or make any claims against the lessor for damages resulting from crime, casualty loss or damages for personal property or injuries and will indemnify the Lessor against any claims or loss from Tenant's family or invitees, or themselves, their heirs, executors, administrators, successors and assigns.

(24) THIS LEASE, APPLICATION AND RULES & REGULATIONS represents the whole agreement between the Lessor and Tenant and cannot be changed, modified, discharged or terminated orally.

TENANT

TENANT

TENANT

BY _____

Equal Housing Opportunity